IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSEY CRISOSTOMO, Plaintiff, v. CHARTWELL STAFFING SERVICES, INC., d/b/a CHARTWELL STAFFING SOLUTIONS, TRACEY L. SCHNEIDER-KIDAN and ADAM KIDAN, Defendants.	)	Case No: 1:16-cv-6406 Honorable John Z. Lee

DEFENDANT CHARTWELL STAFFING SERVICES, INC.'S
MOTION TO COMPEL ARBITRATION AND STAY FURTHER PROCEEDINGS

Defendant Chartwell Staffing Services, Inc. d/b/a Chartwell Staffing Solutions ("Chartwell"), by and through its undersigned attorneys, moves the Court to compel Plaintiff Josey Crisostomo to submit his claims against Chartwell to binding arbitration in accordance with Plaintiff and Chartwell's written contract, and to stay all further proceedings against Chartwell. In support hereof, Chartwell states as follows:

1. On June 21, 2016, Plaintiff, Josey Crisostomo, a former employee of Chartwell, filed a two-count Complaint alleging that Chartwell violated the Illinois Wage Payment & Collection Act ("IWPCA"). 820 ILCS 115/1 *et seq*.

2. In Count I, Plaintiff asserts that Chartwell violated the IWPCA by failing to pay Plaintiff "commissions" and "profit sharing" pursuant to the terms of his Employment Agreement with Chartwell. (Compl. at ¶ 18.) In Count II, Plaintiff asserts that Chartwell unlawfully terminated his employment in retaliation for complaining that Chartwell failed to pay

him compensation pursuant to his Employment Agreement in violation of the IWPCA. 820 ILCS 115/14(c). A copy of the Employment Agreement is attached as Exhibit A to the Complaint.

3. Plaintiff's Employment Agreement with Chartwell contains an arbitration clause requiring that any action alleging a violation of the employment agreement shall be resolved by binding arbitration (the "Arbitration Clause"). (Compl., Ex. A, Empl. Agmt., ¶ 15.C.)

4. Specifically, the Arbitration Clause states as follows:

> This Agreement shall be interpreted and construed according to the laws of IL. In the event of an action by either party alleging a violation of this Agreement, the parties hereto agree to binding arbitration via an accredited arbitration service located in Chicago, IL or as close as possible. The moving party shall be responsible for all filing and procedural fees.

(Compl., Ex. A, Empl. Agmt., ¶ 15.C)

5. In the course of communications between the Parties' respective counsel prior to the commencement of this lawsuit, Plaintiff refused to arbitrate his claims against Chartwell unless Defendants Tracey Schneider-Kidan and Adam Kidan (the "Individual Defendants") were also made parties to the arbitration.

6. The Individual Defendants were not parties or signatories to the Employment Agreement so Plaintiff had no lawful basis to demand that they submit to binding arbitration along with Chartwell.

7. When the Individual Defendants did not agree to submit to binding arbitration, Plaintiff commenced this action against Chartwell and the Individual Defendants.

8. Plaintiff's Employment Agreement expressly requires that Plaintiff's claims against Chartwell shall be resolved by binding arbitration. (Compl., Ex. A, Empl. Agmt., ¶ 15.C.)

9. The Illinois Arbitration Act (the "IAA") and the Federal Arbitration Act (the "FAA") compel judicial enforcement of a wide range of written arbitration agreements, including employment agreements. *See Circuit City Stores, Inc. v. Adams*, 121 S. Ct. 1302, 1307 (2001); 9 U.S.C. § 1; 710 ILCS 5/1 *et seq.*

10. Illinois and federal courts construe arbitration clauses liberally in accordance with Illinois' public policy favoring arbitration. *Liberty Chevrolet, Inc. v. Rainey*, 339 Ill. App. 3d 949, 953, 791 N.E.2d 625, 629 (2d Dist. 2003) ("because public policy favors arbitration, arbitration clauses should be construed liberally").

11. In Illinois, a mandatory arbitration clause in an employment contract is generally valid and enforceable, and such a provision does not violate the rights of employees. Illinois courts look to general contract law for guidance on the enforceability of an arbitration agreement. *Melena v. Anheuser-Busch, Inc.*, 219 Ill. 2d 135, 152, 847 N.E.2d 99, 109 (2006).

12. Here, the Arbitration Clause in the Employment Agreement requires arbitration of Plaintiff's Complaint because his IWPCA claims are expressly founded upon Plaintiff's allegations that Defendants violated the Employment Agreement by failing to pay Plaintiff commissions and profit sharing per the Employment Agreement. (Compl. at ¶¶ 7, 9, 10, 12, 18).

13. Plaintiff's claims against Chartwell are subject to arbitration under the plain language of the Arbitration Clause, and there is no valid defense or basis to avoid enforcement of the Arbitration Clause.

14. In accordance with the clearly mandated public policy favoring arbitration of disputes, and consistent with the IAA and FAA and the express agreement between Plaintiff and Chartwell, the Court should enforce the Arbitration Clause in the Employment Agreement and

compel Plaintiff to submit his claims against Chartwell to be resolved via binding arbitration pursuant to the Employment Agreement.

WHEREFORE, Defendant Chartwell Staffing Services, Inc. d/b/a Chartwell Staffing Solutions hereby moves this Court for the entry of an order compelling Plaintiff Josey Crisostomo to submit his claims against Chartwell to binding arbitration, staying all further proceedings against Chartwell, and granting such other relief as the Court deems equitable and just.

Respectfully submitted,

CHARTWELL STAFFING SERVICES, INC.,
d/b/a CHARTWELL STAFFING SOLUTIONS

By: */s/ Matthew P. Tyrrell*
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